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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/076,949

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Thomas Huber

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3402

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04/02/2009

SCHWEGMAN, LUNDBERG & WOESSNER/OPEN TV

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EXAMINER

SHANG, ANNAN Q

ART UNIT

PAPER NUMBER

2424

MAIL DATE

DELIVERY MODE

04/02/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<p align="center">Advisory Action Before the Filing of an Appeal Brief</p>	<p>Application No. 10/076,949</p>	<p>Applicant(s) HUBER ET AL.</p>	
	<p>Examiner ANNAN Q. SHANG</p>	<p>Art Unit 2424</p>	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 03 March 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
- (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ They raise the issue of new matter (see NOTE below);
- (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
- The status of the claim(s) is (or will be) as follows:
- Claim(s) allowed: none.
- Claim(s) objected to: none.
- Claim(s) rejected: 1-28,32 and 33.
- Claim(s) withdrawn from consideration: none.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☒ Other: See Continuation Sheet.

/Annan Q Shang/
Primary Examiner, Art Unit 2424

Continuation of 13. Other: With respect to the rejection of the last office action mailed 01/07/09, Applicant amends claim 1, discusses the prior arts of record and the claimed invention and further argues that the prior arts of record do not meet the claims limitations and furthermore the 103(a) rejection using the prior arts of record is not proper (see page 11+ of Applicant's Remarks).

In response, Examiner notes Applicant's amendments/arguments, however the Examiner disagrees. With respect to the amended claim, Kitsukawa discloses presenting visual image of the product to a user (see figs.5-11). Kitsukawa further teaches all the claims limitations including checking by CPU-29, if a plurality of versions exist for the selected product and presenting the different versions to the user (col.10, line 22+). Kitsukawa, further teaches using a user settings and preferences for processing of information and configuration of the system (col.5, line 56-col.6, line 18). Kitsukawa teaches that following the selection of advertising mark 720, the CPU-29 checks and displays different versions and upon a further selections the CPU-29 again checks and displays different versions as shown in 706, i.e., when a car ads is selected the CPU-29 checks the various versions and displays car, car tires, type, car detailing services, car repair services, etc., (plurality of versions). Kitsukawa is silent as to comparing more than one version of the product with previously collected and stored preference information associated with the viewer. However, Zigmond discloses techniques for intelligent video ad insertion and further discloses comparing ads with previously collected and stored preference information associated with the viewer (figs.1, 4-8, col.4, line 53-col.5, line 14, col.9, line 21-col.11, line 1+ and col.13, lines 48-67). Zigmond teaches different content rating (versions) associated with the ads or product. Hence, Applicant's arguments are not persuasive. The 103(a) rejection is proper, meets all the claims limitations (including the amended claim). The finality of the last office action is hereby maintained.